



☐ As the Administrator, Administrator ad Prosequendum, or other representative of the Estate of \_\_\_\_\_ (hereinafter "Decedent"), who died on \_\_\_\_\_.

4. Additionally, Monica Cherniak, is the:

☒ Spouse

☐ Child/Children

☐ Other (Set forth) \_\_\_\_\_

of Rudy Cherniak, is a resident of the State of Indiana, and is hereby named as an additional plaintiff(s), and claims damages.

5. Plaintiff Rudy Cherniak asserts that he was administered New England Compounding Pharmacy, Inc. ("NECC") drugs Depo Medrol (methylprednisolone acetate) and Celestone (betamethasone) (hereinafter referred to as "NECC drugs"), causing injuries and damages.

6. The aforesaid administration of the NECC drugs occurred on: June 26, 2012, July 5, and August 9, 2012, by Gene W. Grove, M.D., at ASC Surgical Ventures, LLC d/b/a O.S.M.C. Outpatient Surgery Center (hereinafter "O.S.M.C."), located in Elkhart, Indiana.

7. Plaintiffs adopt and incorporate by reference the following Causes of Action asserted against the Defendants in the Master Complaint:

☒ COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE (Against UniFirst)

☐ COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE (Against Clinic Related Defendants)

☐ COUNT IV: VIOLATION OF CONSUMER PROTECTION STATUTES (Against Clinic Related Defendants)

Plaintiff(s) allege violation of the following consumer protection statute(s): Ind. Code Ann. 24-5-0.5-1 *et seq.*

- ☒ COUNT VI: VIOLATION OF M.G.L. C. 93A (Against UniFirst)
- ☐ COUNT VII: BATTERY (Against Clinic Related Defendants)
- ☐ COUNT VIII: FAILURE TO WARN (Against Clinic Related Defendants)
- ☐ COUNT IX: TENNESSEE PRODUCT LIABILITY CLAIMS (Against Tennessee Clinic Related Defendants)
- ☐ COUNT X: AGENCY (Against Clinic Related Defendants)
- ☐ COUNT XI: CIVIL CONSPIRACY (Against Clinic Related Defendants)
- ☐ COUNT XII: WRONGFUL DEATH PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)
- ☒ COUNT XIII: LOSS OF CONSORTIUM (Against UniFirst and Clinic Related Defendants)
- ☒ COUNT XIV: PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)

8. Plaintiffs have sent or served the pre-suit notice or demand requirements necessary to bring the claims set forth below, as required under M.G.L.C. 93A. See attached demand letter sent on December 18, 2013, pursuant to Massachusetts General Laws, Chapter 93A, § 9. Plaintiffs do not now assert but will seek leave to amend to assert the following claims promptly after the time period for giving notice has expired:

Count VI

9. Plaintiff Rudy Cherniak claims to have suffered the following injuries as a result of the administration of NECC's drug: high anxiety.

10. Plaintiff Monica Cherniak claims to have suffered the following injuries as a result of the administration of NECC's drug: loss of consortium.

WHEREFORE, Plaintiffs demand Judgment against the Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just.

Plaintiffs reserve the right to amend this Complaint to add allegations and claims against individuals or entities currently omitted (in light of the Court's order permitting a Master Complaint naming defendants affiliated with NECC and currently participating in mediation by December 20) and to add or amend allegations against Defendants named herein based, in part, on further discovery.

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury.

Respectfully submitted:

PRICE WAICUKAUSKI & RILEY, LLC

/s/ Jamie R. Kendall

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Counsel for Plaintiffs

Date: December 20, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of December, 2013, I caused a copy of the above Corrected Short Form Complaint Against Unaffiliated Defendants to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

/s/ Jamie R. Kendall

Jamie R. Kendall